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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/572,788

03/21/2006

Sacha Felder

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7590 10/07/2008  
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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

10/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/572,788	<b>Applicant(s)</b> FELDER ET AL.	
	<b>Examiner</b> Clark F. Dexter	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-16 is/are rejected.
- 7) ☒ Claim(s) 18-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 18, 2008 has been entered.

### ***Drawings***

2. The drawings were received on August 18, 2008. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

3. Claims 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, lines 1-4, the recitation of "an angle ... , the flexible element ... flexibly guided on the angle" renders the claim vague and indefinite since it is not clear how an angle, which is virtual or imaginary, can perform such a guiding function since no structure is set forth to perform such function.

In claim 16, lines 1-3, similar to claim 15, it is not clear how an angle, which is virtual or imaginary, can perform such a guiding function since no structure is set forth to perform such function.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Knouse et al., pn 2,263,136.

Knouse discloses a power tool with every structural limitation of the claimed invention including:

a first operating switch (e.g., 30 or 32) for turning the power tool (e.g., see Fig. 1) on and off, wherein the power tool includes a second operating switch (e.g., 32 or 30) for turning the power tool on and off, and wherein the first operating switch (e.g., 30 or 32) and the second operating switch (e.g., 32 or 30) are mechanically coupled with each other via a flexible connecting element (e.g., 56, which is inherently flexible to at least some extent based on its structural configuration);

[claim 3] wherein the power tool includes a side handle (e.g., 12 or 10) and a top handle (e.g., 10 or 12), the first operating switch (e.g., 30) being located on the side

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handle (e.g., 12), and the second operating switch (e.g., 32) being located on the top handle (e.g., 10);

[claim 9] wherein the first operating switch (e.g., 30) is connected with an adjusting slide (e.g., 37), the adjusting slide converting a motion of the first operating switch into an electrical variable;

[claim 11] wherein the first operating switch and the second operating switch are each directly fastened to the flexible connecting element;

[claim 12] wherein the flexible connecting element has a top end and a lower end and a first flat sheet surface and a second flat sheet surface, and wherein the first operating switch is fastened to the lower end, the second operating switch is connected to the top end, and both of the operating switches are fastened to the same flat sheet surface;

[claim 13] wherein engagement of either one of the first and second operating switches will turn on the tool;

[claim 17] wherein the flexible connecting element is configured so that it is guided in a flexible manner (i.e., the connecting element is flexible and thus is configured such that it is fully capable of being guided in a flexible manner).

### ***Claim Rejections - 35 USC § 102/103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Knouse et al., pn 2,263,136.

Knouse discloses a power tool with every structural limitation of the claimed invention including:

[claim 2] wherein the first operating switch (e.g., 30 or 32) and the second operating switch (e.g., 32 or 30) are positioned essentially at right angles to each other (e.g., as broadly considered, particularly with respect to the relationship of the corresponding features of the present invention as shown in applicants' Fig. 3);

[claim 4 (from 3)] wherein the side handle (e.g., 12) and the top handle (e.g., 10) transition into each other, thereby essentially forming a right angle (e.g., as broadly considered, particularly with respect to the relationship of the corresponding features of the present invention as shown in applicants' Fig. 3), the first operating switch (e.g., 30)

and the second operating switch (e.g., 32) being located on opposing surfaces (e.g., as best understood) within this angle.

In the alternative, if it is argued that a right angle as claimed is not present in Knouse, the Examiner takes Official notice that it is old and well known in the art to provide rectangularly configured handles having corners formed by substantially right angles to provide various well known benefits including ergonomic as well as manufacturing benefits based on the intended use of the tool. Therefore, it would have been obvious to one having ordinary skill in the art to provide the relationships involving right angles as claimed to gain the well known benefits including those described above.

Further, it would have been an obvious matter of design choice to modify the handle by making it more rectangularly configured and thus providing the relationships involving right angles as claimed since applicant has not disclosed that having such specific angles solves any stated problem or is for any particular purpose, and it appears that the device of Knouse would perform equally well with angles in the disclosed range (it is again noted that the corresponding angles in applicants' disclosure are not strict right angles as best viewed in Fig. 3).

### ***Claim Rejections - 35 USC § 103***

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knouse et al., pn 2,263,136.

Knouse discloses a power tool with almost every structural limitation of the claimed invention including a connecting element (e.g., 56) but lacks:

[claim 7 (from 6)] wherein the connecting element (e.g., 56) is made of sheet metal;

[claim 8 (from 6)] wherein the power tool includes a guide for the connecting element (e.g., 56);

[claim 14] wherein the flexible connecting element is curved and defines an obtuse angle;

[claim 15] further comprising an angle provided between the first operating switch and the second operating switch, the flexible connecting element being configured so that it is flexibly guided on the angle;

[claim 16 (from 15)] wherein the angle is curved, and the flexible connecting element is configured so that it is curved and flexibly guided on the curved angle.

Regarding claim 7, the Examiner takes Official notice that it is old and well known in the art to make such components from sheet metal for the various well known benefits including its ease of manufacture, availability, and durability. Therefore, it would have been obvious to one having ordinary skill in the art to make the connecting element of Knouse from sheet metal for the well known benefits including those described above.

Regarding claim 8, the Examiner takes Official notice that such guides are old and well known in the art and provide various well known benefits including stabilizing the transition of force provided by an elongate component to prevent the component from bending or buckling. Therefore, it would have been obvious to one having ordinary



skill in the art to provide such a guide on the device of Knouse to gain the well known benefits including that described above.

Regarding claims 14-16, the Examiner takes Official notice that there are various well known configurations for connecting tandem switches so that they are accessible from different locations/orientations but have the effect of operating a single switch to activate various types of devices including various types of tools. The structure set forth in the subject claims reads on various ones of these known configurations. Therefore, it would have been obvious to one having ordinary skill in the art to provide any one of the well known tandem switch configurations on the device of Knouse to gain the well known benefits including those described above.

9. Claims 1, 3, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nalley, pn 4,262,420 in view of Knouse et al., pn 2,263,136.

Nalley discloses a power tool with almost every structural limitation of the claimed invention including:

a first operating switch (e.g., 20) for turning the power tool (e.g., see Fig. 1) on and off,

[claim 10] wherein the power tool is a jigsaw.

Nalley lacks wherein the power tool includes a second operating switch (e.g., the other occurrence of 18) for turning the power tool on and off.

Knouse discloses a saw with a handle having first and second operating switches (e.g., 30, 32) on top and side handles (e.g., 12, 14) as described above and teaches that the disclosed handle configuration facilitates operation of the saw in that the switch

actuating means are associated with each of the grips and so positioned thereon so that upon grasping either grip, a switch may be operated to close the motor circuit and operate the saw. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a handle on the saw of Knouse to gain the benefits taught by Knouse including that described above.

### ***Allowable Subject Matter***

10. Claims 18-20 appear that they would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

11. Applicant's arguments filed August 18, 2008 have been fully considered but they are not persuasive.

Regarding applicant's arguments in the paragraph bridging pages 6-7 of the subject response, applicant argues that the limitation "angle" is structural and is directed to a structural element. The Examiner respectfully disagrees with applicant's analysis, particularly since the normal/common use of the widely-used term "angle" refers to imaginary or virtual feature.

Regarding the prior art rejections, the Examiner respectfully maintains that the prior art teaches and/or suggests the claimed invention as described above for at least the reasons previously argued.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
September 30, 2008